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AREAS USA SJC, LLC
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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 AREAS USA SJC, LLC, a California
limited liability company,

16 Plaintiff,

17 vs.

18 MISSION SAN JOSE AIRPORT, LLC, a
19 Colorado limited liability corporation; and
MISSION YOGURT, INC., a Colorado
20 corporation,

21 Defendants.
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CASE NO. C11-04487 HRL

PLAINTIFF AREAS USA SJC, LLC'S
PROPOSED FORM OF VERDICT FOR
TRIAL

Complaint filed: September 9, 2011
Trial date: January 7, 2013

1 In accordance with the Court's Standing Order re: Pretrial Preparation, plaintiff Areas USA SJC,
2 LLC ("Areas") submits this proposed form of verdict for the Court's use at trial. Attached hereto as
3 Exhibit A is Areas' proposed special verdict form.
4

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7 Dated: December 4, 2012

GREENBERG TRAURIG, LLP

8 By: /s/ Denise M. Mayo
9 Denise M. Mayo
10 Attorneys for Plaintiff,
11 AREAS USA SJC, LLC
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**PLAINTIFF AREAS USA SJC,
LLC'S PROPOSED FORM OF
VERDICT FOR TRIAL**

EXHIBIT A

PROPOSED SPECIAL VERDICT

It has been stipulated that: (1) Mission San Jose Airport, LLC entered into the Concession Subcontract with plaintiff Areas, and Mission Yogurt, Inc. provided a written guaranty as security for Mission San Jose's performance; (2) Mission has not built out the leased premises; (3) Mission San Jose Airport has not made any of the payments, or posted a letter of credit, as specified in the Subcontract; and (4) Mission Yogurt has not made any payments under its Guaranty. Thus, you need not resolve such issues. Instead, please simply answer the first question below and then proceed to answer such remaining questions as are necessary to comply with the instructions set forth below.

1. Please state the amount of damages to which plaintiff has proven, by a preponderance of the evidence, to which would be entitled if Mission does not prove a defense to performance.

\$ _____

(When you have filled in the blank provided for in Question 1, please proceed to question 2.)

2. Has Mission proven by a preponderance of the evidence that Areas has misrepresented and/or concealed a material fact it had a duty to disclose with respect to the leased premises?

No

Yes

(If you have answered "no" to Question No. 2, then please have the foreperson sign and date this form and notify the bailiff. If you have answered "yes" to Question No. 2, then please proceed to Question No. 3.)

3. Has Mission proven by a preponderance of the evidence that Areas knew of the falsity of its statement and/or knew it was concealing material information it had a duty to disclose?

No

Yes

1 (If you have answered "no" to Question No. 3, then please have the foreperson sign and date this form
 2 and notify the bailiff. If you have answered "yes" to Question No. 3, then please proceed to Question
 3 No. 4.)

4 4. Has Mission proven by a preponderance of the evidence that Areas committed the acts described
 5 in Question Nos. 2 and 3 with an intent to induce Mission to enter into the Concession
 6 Subcontract and Guaranty?

7
 8 _____
 9 No

Yes

10 (If you have answered "no" to Question No. 4, then please have the foreperson sign and date this form
 11 and notify the bailiff. If you have answered "yes" to Question No. 4, then please proceed to Question
 12 No. 5.)

13 5. Did Mission justifiably rely upon Areas in entering into the Concession Subcontract and
 14 Guaranty?

15
 16 _____
 17 No

Yes

18 (If you have answered "no" to Question No. 5, then please have the foreperson sign and date this form
 19 and notify the bailiff. If you have answered "yes" to Question No. 5, then please proceed to Question
 20 No. 6.)

21
 22
 23 6. Has Mission proven by a preponderance of the evidence that it has suffered resulting damage?

24
 25 _____
 26 No

Yes

27 (If you have answered "no" to Question No. 6, then please have the foreperson sign and date this form
 28 and notify the bailiff. If you have answered "yes" to Question No. 6, then please proceed to Question
 No. 7.)

7. If, but only if, you have answered "yes" to each of Question Nos. 2-6, then please state the amount of damages Mission has proven, by a preponderance of the evidence.

\$ _____

(If your answer is zero, then please have the foreperson sign and date this form and notify the bailiff. Otherwise, after you have filled in the blank provided for in Question 7, please proceed to answer Question Nos. 8 and 9, and then have the foreperson sign and date this form and notify the bailiff.)

8. Has Areas acted with oppression, fraud or malice towards Mission San Jose Airport, LLC?

_____	_____
No	Yes

9. Has Areas acted with oppression, fraud or malice towards Mission Yogurt, Inc.?

_____	_____
No	Yes

DATED: _____

FOREPERSON

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **1840 Century Park East, Suite 1900, Los Angeles CA 90067**.

On December 4, 2012, I served **PLAINTIFF AREAS USA SJC, LLC'S PROPOSED FORM OF VERDICT FOR TRIAL** on the interested parties in this action by placing the true copy thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

Daniel Rockey
Meryl Macklin
BRYAN CAVE LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105

Attorney for Defendant

Tel: (415) 286-1986
Fax: (415) 268-1999

☐ **(BY FEDERAL EXPRESS)**

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for delivery by Federal Express. Under the practice it would be deposited with Federal Express on that same day with postage thereon fully prepared at Santa Monica, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if delivery by Federal Express is more than one day after date of deposit with Federal Express.

☐ **(BY U.S. MAIL)**

I served the above-mentioned document by enclosing it in an envelope and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing.

☒ **(BY CM/ECF)**

Pursuant to CM/ECF System, registration as a CM/ECF user constitutes service through the Court's transmission facilities. The Court's CM/ECF system sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's EC/CMF system.

☒ **(FEDERAL)**

I declare under penalty of perjury that the foregoing is true and correct, and that I am Employed at the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 4, 2012 at Los Angeles, California.



Harpo Sidhu